



U.S. Department of Justice

United States Attorney
Eastern District of New York

JMK/AES/GKS
F.#2014R00501

271 Cadman Plaza East
Brooklyn, New York 11201

April 21, 2017

By Hand and ECF

Honorable Kiyo A. Matsumoto
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Martin Shkreli
Criminal Docket No. 15-637 (KAM)

Dear Judge Matsumoto:

Pursuant to the Court's January 13, 2017 amended criminal pretrial scheduling order ("Pretrial Order") (Dkt. No. 147), the parties are required to make a series of disclosures by April 21, 2017, including a list of exhibits; list of witnesses; list of persons, entities and locations; voir dire requests; proposed verdict forms; requests to charge; and stipulations. (See Pretrial Order at ¶ 3).

In connection with that order, the government attaches the following to this filing:¹

| Pretrial Order Section | Description | Exhibit No. |
|------------------------|--|-------------|
| Pretrial Order ¶ 3(v) | Government's Preliminary List of People, Entities and Locations ² | Exhibit A |

¹ As the Court severed the trials of the defendants on April 19, 2017 (Dkt. No. 197), the government has used the caption "United States v. Martin Shkreli" for Exhibits A and E; however, these attachments are the preliminary filings for the trials of both defendants.

² Both Exhibit A and the appendices to Exhibit E have been provided to the Court and the defendants in hard and/or electronic copy but have not been publicly filed on ECF, as these lists are not final and contain the names of individuals who may be witnesses at trial.

| Pretrial Order Section | Description | Exhibit No. |
|--------------------------|--|-------------|
| Pretrial Order ¶ 3(vi) | Government's <u>Voir Dire</u> Requests for Shkreli | Exhibit B1 |
| | Government's <u>Voir Dire</u> Requests for Greebel | Exhibit B2 |
| Pretrial Order ¶ 3(viii) | Government's Requests to Charge for Shkreli | Exhibit C1 |
| | Government's Requests to Charge for Greebel | Exhibit C2 |
| Pretrial Order ¶ 3(vii) | Government's Proposed Verdict Form for Shkreli | Exhibit D1 |
| | Government's Proposed Verdict Form for Greebel | Exhibit D2 |
| Pretrial Order ¶ 3(iv) | Government's Preliminary List of Exhibits | Exhibit E |

The government's preliminary witness list (pursuant to Pretrial Order ¶ 3(iv)) includes all of the individuals listed in Section III of Exhibit A. The government does not currently anticipate calling any expert witnesses in its case-in-chief; however, the government may determine in the course of trial preparation (for either the trial of Shkreli on June 26, or the future trial of Greebel) that one or more expert witnesses are necessary, and will provide notice to the relevant defendant and to the Court prior to the trial of that defendant. The government may also add to or subtract from its preliminary list of persons, entities and locations, preliminary witness list and preliminary exhibit list as it continues trial preparation. In accordance with Pretrial Order ¶ 4, the government will provide Shkreli with marked copies of its anticipated exhibits at the June 19, 2017 pretrial conference,³ though some additional exhibits may be added after that date as necessary in advance of, or during, trial.

In addition, the government and counsel for Shkreli have conferred with respect to stipulations, pursuant to Pretrial Order ¶ 3(ix). While the parties are not prepared to finalize stipulations at this time, the parties expect to agree to stipulations covering the admission of certain business records (e.g., bank and brokerage records), so as to avoid the need for the testimony of records custodians. The government has also offered to confer with counsel for Greebel with respect to stipulations in advance of his trial date.

The Pretrial Order also requires that the parties file any objections to the authenticity of documents. See Pretrial Order ¶ 3(ix). To date, despite repeated requests, the government has not received any reciprocal discovery from the defendants. In addition, the

³ The government anticipates that the Court will set a separate pretrial conference for Greebel's trial, which the Court had previously stated would take place starting October 2, 2017, in the event of a severance. (See Transcript of July 14, 2017 Status Conference, at 52:10-15).

defendants have not yet advised that they will seek to affirmatively offer any documents or any other items into evidence at trial. Consequently, the government cannot make any objections to the authenticity of any evidence to be offered by the defendants at this time. Should the defendants produce any discovery or advise that they will offer any documents or other items into evidence, the government will advise the Court in a timely manner of any objections to the authenticity of such evidence.

Finally, as set forth in the government's requests to charge, the government notes that in the Superseding Indictment, Greebel was charged only in Count Seven (the Retrophin Misappropriation Scheme) and Count Eight (the Retrophin Unrestricted Shares Scheme). Because Greebel will be tried separately from Shkreli – and, as a result, Counts One through Six of the Superseding Indictment will not be before the jury in Greebel's trial – Count Seven and Count Eight have been renumbered in the proposed voir dire, requests to charge and verdict sheet for Greebel's trial as Count One (the Retrophin Misappropriation Scheme) and Count Two (the Retrophin Unrestricted Shares Scheme) in order to avoid jury confusion.

Respectfully submitted,

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